

March 25, 202

What Happened to the Constitutional Amendment?

In these very trying times, it's difficult to email about anything unrelated to COVID-19. The uncertainty of the future puts all of us in survival mode. Like you, we are focusing on our families, our jobs, our health, and our churches. Hard decisions are being made right now that will have deep and lasting impacts.

The high alert CPL sent out on March 5th about the **proposed constitutional amendment on education**, SF 3977 (HF 3658 in the House), has moved into the background. The Minnesota Senate adjourned until at least April 14, and the House is in recess, with meetings and floor sessions taking place on an on-call basis until then.

This CPL legislative update is a 'for the record' report detailing the outcome of the informational hearing of bill SF 3977 in the Senate Education Committee on Friday, March 6. We want you, our supporters, to understand what was intended and what transpired.

Your calls and emails to legislators to oppose this bill before and after the hearing made a huge impression! Thank you! Because it was an informational hearing, no votes were taken, and it is likely no action will be taken until the 2021 session. However, **this proposal will not be going away!**

CPL has zero confidence that the teachers union will continue its opposition and many well-intentioned legislators, unfortunately, seriously believe the hype. That's why your calls and emails were and will remain critically important. The amendment has major, heavy hitter support. Corporate business lobbies love it, the MN Attorney General Keith Ellison strongly supports it, and tragically, the Republican leader in the MN House, Kurt Daudt, appears to be fully on board. Minnesota's "achievement gap" remains one of the worst in the nation, so everyone wants a "conversation" about it. But SF 3977 is a dangerous way to have that "conversation." [See *ENDNOTE.*]

FIRST THE GOOD NEWS!

Please thank the legislators who removed themselves as authors: Rep. Greg Boe, Rep. Bob Dettmer, Rep. Swedzinski, Rep. Koznick, Rep. Grossell, and Senator Pratt. Some of the authors told us they don't necessarily intend to support it! We hope many more authors drop their support. Continue encouraging all legislators to oppose this bill as we at CPL continue to monitor this and keep you updated.

It is important to contact *all members* of any committee who hear bills, because the committee members will eventually vote to advance or stop the bills. This doesn't mean they automatically support this bill. *Please also thank* Senate Education Chair Carla Nelson. She heard the proposal

and clearly was not impressed with it, nor were most of the committee members, Democrat and Republican alike.

Your opposition is important! Keep in mind that some lawmakers not with us on this particular bill remain strong allies on other issues that are also urgent matters. Although it is deeply concerning that many good legislators signed on to this terrible bill, SF 3977, legislators are trying to find solutions, so please keep those communication lines open.

NOW THE BAD NEWS.

Neel Kashkari's and Alan Page's advocacy for SF3977

President and CEO of the Federal Reserve Bank of Minneapolis Neel Kashkari and retired Justice of the Minnesota Supreme Court Alan Page have been privately lobbying for this bill for months. They gave a presentation during this hearing.

- [View the PowerPoint Presentation \(PDF\)](#)
- [View the Committee Hearing](#)

Go to March 6, click on "video."

Note: Testimony on this bill begins at 31minutes: 52seconds. Testimony from Mr. Kashkari begins at 38minutes: 55seconds.

Currently, the MN Constitution directs the **legislature** *"to establish a general and uniform system of public schools"* and to *"secure a thorough and efficient system of public schools throughout the state."*

The proposed Constitutional Amendment reads as follows:

EQUAL RIGHT TO QUALITY PUBLIC EDUCATION. All children have a fundamental right to a quality public education that fully prepares them with the skills necessary for participation in the economy, our democracy, and society, as measured against uniform achievement standards **set forth by the state**. It is a paramount **duty of the state** to ensure quality public schools that fulfill this fundamental right. (Emphasis added.)

Changing our MN Constitution to require that "all children" have a civil right to "a quality" education means all children. **No child of any age is exempt from a constitutional right.** The government would be constitutionally obligated to enforce this new right.

See the [CPL March 5, 2020 High Alert ENewsletter](#)

Further, replacing **"the duty of the legislature"** with **"the duty of the state"** would enshrine into law a massive power grab over the legislature, local school districts, nonpublic education, and

parents. “The state” is the courts and the state bureaucrats. It’s extremely slippery language. As Mr. Kashkari stated, the legislature *gets* to have a say!

Below are excerpts from Kashkari’s arguments:

1. **It’s racist.** “Minnesota’s constitutional language was written in 1857 when slavery was still legal in the United States and women could not vote. It was intended to provide education to the children of white land owners. The system is working as it intended.” [Slide #6.]

“If only 34% of white kids could read at grade level, we would be treating this like the crisis it is.” [Slide 12.]

CPL Response: These false statements demonstrate his radical ideological intent and discredit Kashkari’s case. The truth is that **Minnesota was never a slave state**. Slavery was illegal in Minnesota from its founding in 1858: Article 1, Section 2, “There shall be neither slavery nor involuntary servitude in the state.” The very principle of “a general and uniform system of public schools” demonstrates, from Minnesota’s founding, an intent to educate *everyone*. He did not provide any evidence to support his claim.

2. **We’re laggards.** “Since 1990, there have been 312 education amendments on ballots around the country – but zero in Minnesota.” [Slide 7.]

CPL Response: Kashkari tried to shame Minnesota for being throwbacks, behind the times. During his testimony, his evidence for this claim was this comment: “What we are proposing is not revolutionary. It’s literally been done in most of the rest of the country.”

Other states have not amended their constitutions to align with mandated tests and workforce standards driven by global corporate interests. His is a radical proposal and not one already being implemented across the country.

3. **Other states have made progress in closing the gap when they passed constitutional amendments. Florida has made incredible progress.** [Slide 5.]

CPL Response: In his testimony, Kashkari highlighted Florida as a success story. Then he stated not to do what Florida did, but to pass this amendment instead. So, which is it? Katherine Kersten testified that, “In fact, the academic gains the Fed cites did NOT result from constitutional amendments or from court involvement with education policy.”

View [Katherine Kersten testimony \(PDF\)](#) submitted to the committee.

4. **Putting the courts in control is a good thing.**

CPL Response: Kashkari argued that court involvement should be welcome, since “civil rights have led to transformation of society over time.” [Slide 9]. He states further that opposition to those rulings was a cover for racism and sexism, inferring that any opposition to his proposed court oversight of our education system is also racist! That’s a favorite shaming tactic used to silence opposition and genuine discussion. It makes objective consideration of the facts virtually impossible.

Yet two slides later he argued that **the amendment does *not* give judges too much power** over education. [Slide 11.] He noted that “the constitution created three co-equal branches of government” and that “each has a role to play.” With no evidence whatsoever, he then claimed “the legislature and executive branches would have the primary responsibility to decide policy.” Again, which is it?

When a civil right is created to achieve a specific outcome, it is ultimately enforceable through court action. Kashkari provided no evidence to claim the other branches of government could override a court mandate. We all know how that works.

5. **“This would put power in the hands of families. That is fundamental. Instead of focusing on the system, focus on families and give families power.”**

CPL Response: This statement is patently false. The amendment does the exact opposite. The “state” would be courts and bureaucrats, unaccountable to the voters, and whatever influence the legislative body could eke out. Local control, independent school districts and private education are history under this proposal.

The amendment mandates an outcome for every child that “*fully prepares them with the skills necessary for participation in the economy, our democracy, and society, as measured against uniform achievement standards set forth by the state.*” Who exactly decides what skills are necessary? Does it include comprehensive sex education? The CSE advocates think so. All students would be “measured” against the “standards of the state” for whatever the bureaucrats decide they need to “participate” in work, civil government, and “society.” Private education becomes completely subservient to public education.

6. **“This is not about private schools.”** Kashkari’s assurance for this claim is that, “The amendment says ‘public’ three times.” [Slide 10.]

CPL Response: Because the language says one thing ('public'), it clearly *does not mean it won't apply to anything else!* Anyone who took logic 101 should recognize this fallacy. A constitutional human right has to *apply to every single person, and to "nonpublic education."* A civil right has *no exceptions*, and the state would have the duty to enforce it.

Kashkari called in a higher authority: "Minnesota Attorney General Keith Ellison also agrees this is not about private schools." Therefore, "this is not about private schools." The actual language, however, says something quite different. We've already established Kashkari's ideological agenda (point #1), and few would argue that Keith Ellison's is any different.

7. "Critics have offered no credible plans of their own to close these terrible gaps." [Slide 12.]

CPL Response: Kashkari's proposal offers no plan, either. Quote: "We have not specified what those policies should be. That, we believe, should be done by the legislature, and by the families, and by the teachers at the local level to decide what their children need in order to be successful."

CONCLUSION

The Kashkari/Page testimony in support of the proposed Education Constitutional Amendment SF 3977 is a deft sleight of hand which **would remove legislative authority and establish judicial and bureaucratic power over the education of all Minnesota children, whether in public or private school, from birth on.**

ENDNOTE:

As far back as the early 90's, Barbara Dafoe Whitehead and David Blankenhorn, among others, reported on the [overwhelming body of social-scientific evidence](#) that children from intact families have the greatest measures of success in all areas of life, including education achievement. Political leaders generally don't include this evidence in their "conversations", so they continue throwing ineffective, counterproductive 'solutions' at the problem, such as more money, federal intrusions, race-equity plans, and social emotional learning (SEL), that have no impact on our stubborn achievement gap.

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From the [Testimony of HSLDA \(Home School Legal Defense Association\)](#):

If a child has a "right" to a "public education" – would parents who home educate or enroll their child in a nonpublic school be denying this right? The proponents say that isn't their intent. Yet there are many who advocate for that very thing. Could parents now be subject to educational neglect investigations for denying the rights of their children? We are concerned that the proposed

amendment would not empower families but would empower the state as the ultimate authority in a determining a child's education.

From the [Testimony of MACHE \(Minnesota Association of Christian Home School Educators\)](#):

We are concerned that this proposed amendment would lay the groundwork for the stripping away of more parental rights, and open the door for stronger state control of the family. It is the role of the state to see that children are educated, but it is not the role of the state to mandate early education or to approve the curriculum or methodology.

From the Testimony of a retired teacher, Steve Ford:

The solution to our "education problem" will not be reached by proclaiming our obvious failures to be unacceptable, or worse—illegal—and then adjudicating plaintiffs' claims against school districts, individual schools, teachers, or units of state government.